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09/865,027	05/24/2001	Anthony Previte	2193/1G456US1	2896

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EXAMINER

HANSEN, JAMES ORVILLE

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 11/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/865,027

Applicant(s)

PREVITE, ANTHONY

Examiner

James O. Hansen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 4-11 and 14-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-11 and 14-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 22, 2003 has been entered.

### ***Specification***

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification as originally filed, does not provide an antecedent basis for the claiming of "openings" in the ventilation section as being "spaced apart and are offset from the openings of the opposing skin ventilation section" [claims 9 & 18]. The specification on page 4, lines 23-29] only discloses that the "openings" in the skins are "substantially aligned to permit viewing directly through the openings". Appropriate correction is required.

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***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 7-10 & 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 7, the phrase "panels is formed by opposing skins, each having at least one of said ceiling panels having a ventilation opening therein" is unclear and confusing as presently worded [The examiner suggests deleting "having at least one" from the recitation for clarification purposes]. Consequently, the remaining claims are rendered indefinite since they are dependent upon a rejected claim. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 11, 4-5 & 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gavin et al., [U.S. Patent No. 4,843,788] in view of Schulz [U.S. Patent No. 4,550,545]. Gavin (figures 1-4) teaches of a security locker comprising: a pair of opposing side walls and a pair of opposing end walls extending upwardly from a floor and connected together (see fig. 1), each of

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the walls formed by at least one panel having spaced parallel skins (viewed as elements 11 & 22 for example - fig. 3); a ventilation opening formed in the parallel skins of the at least one panel by a ventilation section in each skin [the examiner has taken the position that the "opening" is the recess within the panel that accommodates the ventilation section - the opening in the prior art is viewed as the inherent recess that is filled by the ventilation section insert (13) which would bridge the inner and outer skins of the panel as depicted in fig. 1]; and a ceiling (14) disposed on the upper ends of the walls and having at least one ventilation opening (grating / mesh). Gavin teaches applicant's inventive claimed concept as disclosed above, including a plurality of support members (15 e.g.,) connected between the upper ends of the side panels and end panels and supporting a plurality of panels [viewed as two] forming the ceiling, and the ceiling able to comprise a panel formed by opposing skins and having a ventilation opening [col. 2, lines 31-34 states that the ceiling may included other embodiments in which the interior of the space enclosed by the walls and ceiling is sealed, with a ventilation system mounted on the structure - viewed as incorporating a panel as employed in the prior art with at least one ventilation section]; but Gavin does not show specifics of the ventilation section as presently claimed i.e., the characteristics of the openings in the skins]. However, Schulz (figures 1-8) teaches of a ventilation section (fig. 5) used in an enclosure to provide air flow between the interior of the enclosure and the surroundings. The section including spaced parallel skins (11 & 14), each skin including a plurality of spaced apart openings (12 & 15 respectively). The openings being in-line with respect to the opposing skins [depending upon viewed orientation - at an angle for example] or offset

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from the openings of the opposing skin [as depicted in fig. 6] to restrict viewing into the interior of the enclosure. Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the "locker" of Gavin so as to incorporate a ventilation section as taught by Schulz because this arrangement would allow Gavin the means to provide enhanced air circulation within the interior of the locker since the ventilation section could be inserted at any desired location or include multiple placements of several inserts depending upon personal preferences or design considerations. As to claims 19-21, it would have been obvious and a matter of design choice to implement the shape, size and formation of the openings as prescribed by applicant, since such a modification would have involved varying the size/shape of the opening. A change of this proportion is generally recognized as being within the level of ordinary skill in the art.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gavin et al., in view of Schulz and further in view of Melane et al., [U.S. Patent No. 6,039,414]. The prior art teach applicant's inventive claimed concept as disclosed above, but do not show an equipment mounting station connected within the locker. However, Melane (figures 1-6) teaches of a security locker (10) having an equipment mounting station (80) connected within. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the locker of the prior art so as to incorporate a mounting station as taught by Melane because such an arrangement would provide the prior art with the means to securely support equipment that may be placed within the locker.

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***Allowable Subject Matter***

8. Pending further review and consideration, Claims 7-10 & 14 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include **all of the limitations** of the base claim and any intervening claims.

***Response to Arguments***

9. Applicant's arguments filed 10/22/03 have been fully considered but they are not persuasive. It is viewed that applicant's remarks have been adequately addressed as noted in the above rejections; furthermore, the amendment [amendments to the claims and arguments] filed on 9/22/03 was not made of record and is therefor not relied upon.

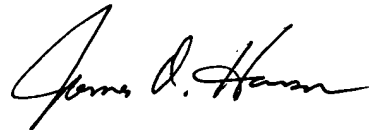
***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hill and Klein disclose "lockers" including side walls with ventilation sections.

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Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist at (703) 308-2168. **The Fax number** for Official Papers is **(703) 872-9306**.

Any inquiry concerning this communication from the examiner should be directed to James O. Hansen whose telephone number is (703) 305-7414. Examiner Hansen can normally be reached Monday to Friday from 9:00 A.M. to 5:00 P.M. Eastern Time Zone.

A handwritten signature in black ink, appearing to read "James O. Hansen". The signature is fluid and cursive, with the first name "James" and last name "Hansen" clearly distinguishable.

James O. Hansen  
Primary Examiner  
Technology Center 3600

JOH  
November 6, 2003